

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays an OMB control number.

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**Docket Number (Optional)  
29250-001066/US

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

Application Number  
10/642,599

Filed  
August 19, 2003

First Named Inventor  
Michael Francis DOLAN et al.

Art Unit  
2686

Examiner  
Huy D. Nguyen

On \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record.  
Registration number 35,416.

☐ attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

Signature

Gary D. Yacura  
Typed or printed name

703.668.8000  
Telephone number

March 16, 2007  
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: Michael Francis DOLAN et al.  
Application No.: 10/642,599  
Filed: August 19, 2003  
Group: 2686  
Examiner: Huy D. Nguyen  
For: WIRELESS COMMUNICATION SYSTEM ENHANCED CALL  
RECOVERY

Attorney Docket No.: 29250-001066//US

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314  
Mail Stop AF

March 16, 2007

**REQUEST FOR PRE-APPEAL BRIEF CONFERENCE**

Sir:

Further to the concurrent filing of the attached Notice of Appeal, the following remarks are submitted in connection with the above-identified patent application under the Pilot Program for Pre-Appeal Brief Conference (Off. Gaz. Patent & Trademark Office, Vol. 1296, No. 2, July 12, 2005).

Claims 1-3, 5, 7-10, 12, 13 and 15-19 are pending. Of those, claims 1, 10, and 16 are independent.

**Rejection For Which Conference Is Requested**

A Pre-Appeal-Brief Conference is requested to review the rejection of claims 1-3, 5, 7-10, 12, 13 and 15-19 under 35 U.S.C. §103(a) as being unpatentable over Hunzinger et al. (hereinafter Hunzinger; US Patent App. Pub. No. 2002/0045443), in view of Wang et al. (hereinafter Wang; US Patent App. Pub. No. 2004/0085894), and in further view of Rinchiuso (US Patent App. Pub. No. 2003/0012222 A1). Claims 5 and 12-13 also stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hunzinger in view of Wang and in further view of Rinchiuso and Pittampalli et al. (hereinafter Pittampalli; US Patent App. Pub. No. 200/0065080).

Initially, please refer to Applicants' arguments on pages 6-7 of the January 9, 2007, After Final Amendment.

In the Office Action dated October 19, 2006, the Examiner admits that the combination of Hunzinger and Wang does not specifically teach dropping the current communication if the call recovery timer expires [section 4, page 3], but alleges that this limitation is described in Rinchiuso. However, while the Examiner states that the motivation to combine Rinchiuso with Hunzinger in view of Wang is "to automatically account for the varying data transfer rate and for optimizing data transfer between network components" [section 4, page 3], Applicants submit that Hunzinger and Rinchiuso would not have been combined, as will be discussed below.

Rinchiuso describes an acknowledgement system using an acknowledgement timer in paragraph [0008]. The acknowledgement system determines if a connection is still viable by sending out an acknowledgement signal. Because a variety of failures may occur and prevent the acknowledgement signal from being properly returned, the acknowledgement system sends many such acknowledgement signals. The temporal spacing between each signal is determined by an acknowledgement timer. Paragraph [0009] goes on to state that the "purpose for the timer is to make the network more efficient by accounting situations in which the [acknowledgement] signal or [acknowledgement] request is not received by the transmitting component" [lines 10-13]. If the acknowledgement signal is not received within the predetermined amount of time, the acknowledgement system will send another acknowledgement signal. In this arrangement, the acknowledgement timer is used to count down to the next retransmission of an acknowledgement signal in order to appropriately space the acknowledgement signals and to avoid abusing systems

resources. Thus, the intended function of the acknowledgement system and timer is to send multiple acknowledgement signals to reasonably ascertain if a connection is still viable (a single signal may be lost for a variety of reasons unrelated to the connection's viability), and to efficiently use the systems resources by sending these signals at a given time interval controlled by the acknowledgement timer.

For example, paragraph [0008] of Rinchioso discloses transmitting an acknowledgement signal and waiting for a reply, with an acknowledgement timer started upon transmission of the acknowledgement signal. According to Rinchioso, if no reply is received within the reply period of the acknowledgement timer, another acknowledgement signal is sent and the acknowledgement timer is restarted. If acknowledgement is not returned, this process will repeat itself three times. After a third unsuccessful attempt, the receiving component may either continue or drop communications with the transmitting component.

Hunzinger is directed to a forward rescue procedure (FRP) for preventing loss of a signal and dropped connections in a telecommunications system. When a connection begins to fail, a mobile station FRP is activated, and concurrently, an FRP timer is started (see reference character 74). Hunzinger discloses that once the FRP timer is started, the mobile station will suspend retransmission of any message that may have failed acknowledgement (see reference character 90), and turn off the transmitter (see transmitter character 92). Once the MS transmitter in Hunzinger is turned off, nothing will be heard from the mobile station (paragraph [0063]).

Claim 1 recites a call recovery timer and "dropping the current communication if the call recovery timer expires". These features are similarly recited in independent claims 10 and 16. The Examiner alleges that these features of the independent claims read on the combination of the FRP timer of Hunzinger and dropping a communication in response to the acknowledgement timer of Rinchioso. However, if the acknowledgement timer of Rinchioso is combined with the FRP method according to Hunzinger, once the timer is activated, the mobile station will turn off its transmitter and suspend retransmission of any acknowledgement packets. In contrast, the acknowledgement timer of Rinchioso counts down to the next retransmission of an acknowledgment packet and will attempt to retransmit that packet if it expires a first time, a second time, and a third time, but will be unable to do so. When combined in this way, further

acknowledgement packets cannot be sent and the acknowledgement timer is rendered unsatisfactory for its intended purpose (timing acknowledgement signals), as described above. Therefore, the references Hunzinger and Rinchiuso are not properly combinable, as the proposed combination would destroy the intended function of the prior art [MPEP 2143.01].

For at least the reasons given above, Applicants submit that Hunzinger in view of Wang and Rinchiuso does not render independent claims 1, 10 and 16 obvious to one of ordinary skill in the art. Furthermore, Pittampalli fails to cure the deficiencies of Hunzinger in view of Wang and in further view of Rinchiuso, and the remaining dependent claims are thus allowable at least for their dependence on an allowable base claim. The Applicants therefore request the rejection of claims 1-3, 5, 7-10, 12, 13 and 15-19 under §103 be withdrawn.

### **CONCLUSION**

In view of the above remarks, Appellants request the Pre-Appeal Brief Conference to find in favor of Appellants' positions and arrange for withdrawal of the above-noted rejections, culminating in the sending of a Notice of Allowance of the pending claims.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-2025 for any additional fees under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

By 

Gary D. Yacura  
Reg. No. 35,416  
P.O. Box 8910  
Reston, VA 20195  
(703) 668-8000

GDY/SAD:let